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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,363	03/03/2004	David Drew Morris	5594	4242

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Thomas L. Moses
Legal Department, M-495
PO Box 1926
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EXAMINER

WATSON, ROBERT C

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/792,363

Applicant(s)

MORRIS, DAVID DREW

Examiner

Robert C. Watson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,9-21 and 23-32 is/are pending in the application.
- 4a) Of the above claim(s) 24-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/25/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7, 9-12, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Washburn in view of Li and further in view of Conti et al..

Washburn (Figure 3) pulls elongate members 10 (inner duct guide tubes having a chosen fire resistant coating) through a conduit using a pull member attached to the respective ends of the elongate members.

Li (Figure 3) teaches that elongate members 10 may be pulled through a conduit by means of a textile monofilament or composite material sleeve made of nylon or polyvinylfluoride having a 600lb strength (Li, columns 3,4, etc.) disposed about the elongate member(s) so that the elongate member is in slideable relation with the textile sleeve.

To provide in Washburn a textile sleeve about the elongate member(s) (inner duct guide tube(s)) would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Li. One of ordinary skill in the art would have been motivated to do this in order to enable the elongate members of Washburn which may be fragile to be pulled through a duct without damaging the fragile elongate members. The examiner takes Official Notice that fire resistant additives and fire resistant coatings on manufactured products are very well known. To employ any of these well know materials as additives or coatings for the purpose of fire retardant purposes is considered deemed to be obvious. Similarly, the examiner

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takes Official Notice that textiles may be monofilament or multifilament and may be of a single component or may be composite. To choose monofilament or multifilament or single component or composite dependant on the strength and flexibility properties desired is deemed to be obvious.

Conti et al teaches that a guide tube may contain a means for installing a cable such as a pull line. Not the flat shaped pull cord 37 in Figure 2 of Conti.

To provide in the guide tube supra a pull line would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Conti et al. One of ordinary skill in the art would have been motivated to do this in order to facilitate the convenient installation of cables subsequently in the inner duct. The shape of the pull cord is no more than an obvious matter of design choice. While the Conti et al pull cord 37 is flat, Washburn teaches that a pull cord 31 may be round. The choice of shape of the pull cord is found to be of immaterial difference however, to employ a round pull cord would have been obvious in view of Washburn. One skilled in the art would have been motivated to select a round pull cord since round pulling devices such as rope cordage are more readily available.

Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Washburn in view of Li and Conti et al supra and further in view of Kertesz.

Kertesz teaches that a manufactured product may include a flame retardant additive.

To provide a flame retardant additive to either or both of the textile sleeve or inner elongate duct supra would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Kertesz. One of ordinary skill in

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the art would have been motivated to do this in order to prevent the products from being damaged by fire.

Claims 17, 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Washburn in view of Li and Conti et al supra and further in view of Morris ('698).

Morris ('698) teaches that a textile sleeve may be multicomponent wherein the warp is polyester and the fill is nylon.

To make the textile sleeve supra from multicomponent polyester and nylon would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Morris. One of ordinary skill in the art would have been motivated to do this in order to provide the textile sleeve with the desired strength and flexibility properties.

Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Washburn in view of Li, Conti et al and Morris supra and further in view of Keogh.

Keogh teaches that glass core with a melamine coating is flame retardant.

To provide the fiber supra with a glass core with a melamine coating would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Keogh. One of ordinary skill in the art would have been motivated to do this in order to prevent the fiber from being damaged by fire.

Claims 24-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/29/05 and 1/9/06.

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Applicant's remarks have been given careful consideration. Applicant has amended the claims by including features recited previously in dependent claims. But, the examiner has previously rejected those dependent claims and the examiner has no intention of retracting that rejection. The examiner finds the rejection of those dependent claims is not in error. Hence, the examiner now similarly rejects the independent that now contain these features. Apparently applicant did not appreciate the teaching of the pull cord 37 shown in Figure 2 of Conti which is located in the inner duct before the inner duct is pulled into the conduit. Applicant made no mention of this in his remarks when he included this pull cord limitation in claim 1. Applicant broadly argues that the Kertesz reference is non-analogous. It is the examiner's position that a teaching of making thermoplastic material flame retardant is applicable to all products made of a thermoplastic material. Hence, the Kertesz reference is analogous art. Applicant states that claim 1 has been amended to "to be limited to a single-cell textile sleeve". The examiner finds no such "single-cell" language in claim 1 and the examiner further does not understand what applicant means by "single-cell".

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 571 272-4498. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rcw


ROBERT C. WATSON
PRIMARY EXAMINER